

The opinion in support of the decision being entered today was not written
for publication and is not binding precedent of the Board.

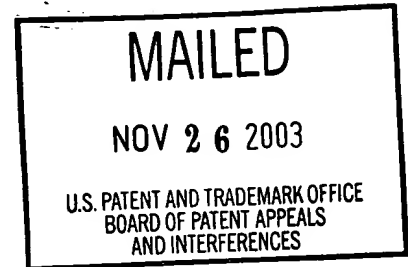
Paper No. 36

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte ALAN G. BARBOUR and
CATHERINE J. LUKE

Appeal No. 2003-1082
Application No. 08/588,637



Before HARKCOM, Acting Chief Administrative Patent Judge, and WINTERS and
WILLIAM F. SMITH, Administrative Patent Judges.

WILLIAM F. SMITH, Administrative Patent Judge.

REMAND TO THE EXAMINER

Our consideration of the record leads us to conclude that this case is not in
condition for a decision on appeal. Accordingly, we remand the application to the
examiner to consider the following issues and take appropriate action.


The examiner entered an Examiner's Answer on August 7, 2002 (Paper No. 28).
In response, appellants filed a Reply Brief received at the USPTO on September 3,
2002 (Paper No. 30) that contains Exhibits A-E and a showing under 37 CFR § 1.195.

The examiner issued a "Communication" on December 23, 2002, stating the
Reply Brief had been entered and that the case would be forwarded to the board. In
entering the Reply Brief, the examiner presumably accepted appellants' showing under
37 CFR § 1.195 and entered and considered the exhibits.

We state that we are authorizing a Supplemental Examiner's Answer under 37 CFR § 1.193(b)(1) if otherwise appropriate.

REMANDED

Sherman D. Winters
Administrative Patent Judge


William F. Smith
Administrative Patent Judge

- BOARD OF PATENT
- APPEALS AND
- INTERFERENCES

Appeal No. 2003-1082
Application No. 08/588,637

Page 3

Thomas J. Kowalski
Frommer, Lawrence & Haug, LLP
745 Fifth Avenue
New York, NY 10151

dem